

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEEFE KAPLAN MARITIME, INC.,

Plaintiff(s),

vs.

NICKOLAI TEHIN, an individual, *in personam*, and
the S/V ESCAPADE, Official No. 23797, and her
engines, gear, tackle, appurtenances, etc., *in rem*,

Defendant(s).

No. C-05-0324 MHP
(WDB)

ORDER ADOPTING

MAGISTRATE

JUDGE'S REPORT

AND

RECOMMENDATION

(Admiralty Default
Judgment)

This action proceeded before Magistrate Judge Wayne D. Brazil, certificates of service on defendants Tehin and the S/V Escapade and all interested parties were filed, and default was entered against defendants who had failed to answer or otherwise respond. The Magistrate Judge held a hearing on a motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b)(2) and filed a report and recommendation on September 27, 2005, recommending that judgment be entered in favor of plaintiffs and against the *in personam* and *in rem* defendants and awarding damages including prejudgment interest, attorneys' fees and costs.

No objections or responses have been filed in accordance with Federal Rule 72(b) and Civil Local Rule 72-3. The court has reviewed the report and recommendation, finds that the Magistrate Judge has fully and fairly tried the issues required to enter judgment under Rule 55(b)(2), that there

1 has been no timely objection to the report and recommendation and, therefore, the report and
2 recommendation is adopted in its entirety.

3 Accordingly,

4
5 IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation is
6 adopted in full.

7 IT IS FURTHER ORDERED in accordance with the Report and Recommendation that:

8 1) Plaintiff shall recover of defendant Tehin, in his individual capacity, damages in the
9 amount of \$133,670.13, representing repair costs and storage/*custodia legis* expenses for the
10 period January 26, 2005 through August 31, 2005, plus prejudgment interest at the rate of
11 18% per annum.

12 2) Plaintiff shall further recover from defendant Tehin, in his individual capacity, \$153.30
13 per day from September 1, 2005, through the date of entry of judgment for continuing
14 *custodia legis* expenses plus prejudgment interest at the rate of 18% per annum.

15 3) Plaintiff shall recover of defendant Tehin, in his individual capacity the amount of
16 \$17,138.59, as and for attorneys' fees and costs.

17 4) Plaintiff shall recover against the vessel S/V Escapade, *in rem*, damages in the amount of
18 \$133,670.13, representing repair costs and storage/*custodia legis* expenses for the period
19 January 26, 2005 through August 31, 2005, plus statutory interest at the rate of 4.08% in
20 accordance with 28 U.S.C. section 1961.

21 5) Plaintiff shall recover against the vessel S/V Escapade storage/*custodia legis* expenses
22 incurred from September 1, 2005, through the date of entry of judgment at the rate of
23 \$153.30 per day plus statutory interest at the rate of 4.08% in accordance with 28 U.S.C.
24 section 1961.

25 IT IS FURTHER ORDERED that the United States Marshal shall conduct an execution sale
26 of the vessel and permit plaintiff to credit bid at the sale up to the amount of plaintiff's
27 judgment *in rem* on the conditions set forth in the Magistrate Judge's Report and
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Recommendation and adopted by this order. Any offset to the judgment against defendant Tehin may be determined by this court following confirmation of the sale.

Judgment shall be entered accordingly.

Date: October 13, 2005



MARILYN HALL PATEL
Judge
United States District Court
Northern District of California

ENDNOTES

United States District Court

For the Northern District of California

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